



City of Austin FSD Purchasing Office

Certificate of Exemption

DATE: 07/12/2017

DEPT: Austin Water

TO: Purchasing Officer or Designee

FROM: Steve Hutton

BUYER:

PHONE: (512) 972-0183

Chapter 252 of the Local Government Code requires that municipalities comply with the procedures established for competitive sealed bids or proposals before entering into a contract requiring an expenditure of \$50,000 or more, unless the expenditure falls within an exemption listed in Section 252.022.

Senate Bill 7 amended Chapter 252 of the Local Government Code to exempt from the requirements of such Chapter expenditures made by a municipally owned electric utility for any purchases made by the municipally owned electric utility in accordance with procurement procedures adopted by a resolution of its governing body that sets out the public purpose to be achieved by those procedures. The Austin City Council has adopted Resolution No. 040610-02 to establish circumstances which could give rise to a finding of critical business need for Austin Energy.

This Certification of Exemption is executed and filed with the Purchasing Office as follows:

1. The undersigned is authorized to submit this certification.
2. The undersigned certifies that the following exemption is applicable to this purchase. (Please check which exemption you are certifying)
 - ☐ a procurement made because of a public calamity that requires the immediate appropriation of money to relieve the necessity of the municipality's residents or to preserve the property of the municipality
 - ☐ a procurement necessary to preserve or protect the public health or safety of municipality's residents
 - ☐ a procurement necessary because of unforeseen damage to public machinery, equipment, or other property
 - ☐ a procurement for personal, professional, or planning services
 - ☐ a procurement for work that is performed and paid for by the day as the work progresses
 - ☐ a purchase of land or right-of-way
 - ☒ a procurement of items available from only one source, including: items that are available from only one source because of patents, copyrights, secret processes, or natural monopolies; films, manuscripts, or books; gas, water, and other utility services; captive replacement parts or components for equipment; books, papers, and other library materials for a public library that are available only from the persons holding exclusive distribution rights to the materials; and management services provided by a nonprofit organization to a municipal museum, park, zoo, or other facility to which the organization has provided significant financial or other benefits
 - ☐ a purchase of rare books, papers, and other library materials for a public library
 - ☐ paving, drainage, street widening and other public improvements, or related matters, if at least one-third of the cost is to be paid by or through special assessments levied on property that will benefit from the improvements
 - ☐ a public improvement project, already in progress, authorized by voters of the municipality, for which there is a deficiency of funds for completing the project in accordance with the plans and purposes as authorized by the voters

- ☐ a payment under a contract by which a developer participates in the construction of a public improvement as provided by Subchapter C, Chapter 212
- ☐ personal property sold: at an auction by a state licensed auctioneer; at a going out of business sale held in compliance with Subchapter F, Chapter 17, Business & Commerce Code; by a political subdivision of this state, a state agency of this state, or an entity of the federal government; or under an interlocal contract for
 - cooperative purchasing administered by a regional planning commission established under Chapter 391
 - ☐ services performed by blind or severely disabled persons
 - ☐ goods purchased by a municipality for subsequent retail sale by the municipality
 - ☐ electricity
 - ☐ advertising, other than legal notices
 - ☐ Critical Business Need (Austin Energy Only)

3. The following facts as detailed below support an exemption according to Section 252.022 of the Local Government Code for this purchase. Please verify the steps taken to confirm these facts. If you are citing the following exemptions, please provide the additional information requested below. A more detailed explanation of these exemptions is attached.

- **Preserve and Protect the Public Health and Safety** – Describe how this purchase will preserve and protect the public safety of residents.
- **Sole Source** – Describe what patents, copyrights, secret processes, or natural monopolies exist. Attach a letter from vendor supporting the sole source. The letter must be on company letterhead and be signed by an authorized person in company management.
- **Personal Services** – Describe those services to be performed personally by the individual contracted to perform them.
- **Professional Services** – Describe what mainly mental or intellectual rather than physical or manual and/or disciplines requiring special knowledge or attainment and a high order of learning, skill, and intelligence are required to perform this service.
- **Planning Services** – Describe the services primarily intended to guide governmental policy to ensure the orderly and coordinated development of the state or of municipal, county, metropolitan, or regional land areas.
- **Critical Business Need** – Describe the procurement necessary to protect the competitive interests or position of Austin Energy.

Sole Source - Infor (US), Inc. is the sole developer of this software and retains copyrights, and proprietary responsibility for this product. New versions, updates, fixes, and maintenance of the original core product can only be provided by Infor (US), Inc.

4. Please attach any documentation that supports this exemption.
5. Please provide any evaluation conducted to support the recommendation. Include the efforts taken to ensure the selected vendor is responsible and will provide the best value to the City (Ex: evaluation of other firms, knowledge of market, etc).

6. Because the above facts and documentation support the requested exemption, the City of Austin intends to contract with Infor (US), Inc. which will cost approximately \$ 1,070,417.29 (Provide estimate and/or breakdown of cost).

Recommended
Certification

Steven W. Hutton 7/12/2017
Originator Date

Approved
Certification

[Signature] 8/2/2017
Department Director or designee Date

[Signature] 7/26
Assistant City Manager / General Manager Date
or designee (if applicable)

Purchasing Review
(if applicable)

[Signature] [Signature]
Buyer Date Manager Initials

Exemption Authorized
(if applicable)

[Signature] 8/11/17
Purchasing Officer or designee Date

02/26/2013



380 St. Peter Street
St. Paul, MN 55102
651-767-7000
www.infor.com

September 8, 2017

Austin Water Utility
Attn: Ms. Teri Pennington, CIO
625 East 10th Street
Austin, TX 78701

Dear Ms. Pennington,

Infor has received your request for a justification to single source the support and maintenance of the Infor-owned software products that you have licensed from Infor.

Infor is the copyright owner for these Infor products, and as such, Infor is the only vendor that has the unrestricted ability to access and modify such Infor-owned software products in order to provide bug fixes, updates and upgrades to you as part of support and maintenance.

Please don't hesitate to contact Harrison T. Schultz, the Client Partner for your account, at 512-781-0425 or harrison.schultz@infor.com, if you have additional questions on this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Lindsay Pritchard", written over a horizontal line.

Lindsay Pritchard
Associate General Counsel